



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,247	07/26/2002	Astrid Kleen	H 3609 PCT/US	9303

423 7590 09/16/2004

HENKEL CORPORATION  
THE TRIAD, SUITE 200  
2200 RENAISSANCE BLVD.  
GULPH MILLS, PA 19406

EXAMINER
----------

ELHILO, EISA B

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/088,247	Applicant(s) KLEEN ET AL.	
	Examiner Eisa B Elhilo	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-36 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-36 is/are allowed.
- 6) ☒ Claim(s) 18-28 and 30-33 is/are rejected.
- 7) ☒ Claim(s) 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1 This action is responsive to the remarks filed on 7/18/2004.

2 The rejection of claims 18, 20-25 and 33 under 35 U.S.C. 103(a) as being unpatentable  
over Bernard et al. (US 6,274,364 B1), is maintained for the reasons set forth in the previous  
office action that mailed on 3/15/2004.

3 The rejection of claims 19, 26-28 and 30-32 under 35 U.S.C. 103(a) as being  
unpatentable over Bernard et al. (US 6,274,364 B1) in view of McDevitt et al. (US 6,051,033), is  
maintained for the reasons set forth in the previous office action that mailed on 3/15/2004.

4 Objection to claim 29 is maintained for the reasons set forth in the previous office action  
that mailed on 3/15/2004.

5 Claims 34-36 are allowed for the reasons set forth in the previous office action that  
mailed on 3/15/2004.

***Response to Applicant's Arguments***

6 Applicant's arguments filed 7/18/2004 have been fully considered but they are not  
persuasive.

With respect to the rejection of claims 18, 20-25 and 33 under Bernard et al. (US' 364),  
Applicant argues that Bernard et al. relate to the treatment of skin and does not teach or disclose  
a teaching for dyeing keratin fibers.

The examiner respectfully disagrees with the above argument because the reference  
clearly teaches that the composition of the invention may be formulated as a composition for the  
care of scalp, a hair styling cream or gel and a dyeing composition (especially oxidation dyeing)  
(see col. 8, lines 15-25). Therefore, the reference clearly teaches that the composition can be

Art Unit: 1751

formulated as the hair treating composition specially the oxidative hair dyeing composition and, thus, this is an obvious formulation.

With respect to the rejection of claims 19, 26-28 and 30-32 under Bernard et al. (US' 364) in view of McDevitt et al. (US' 033), Applicant argues that there is no motivation to combine the references because Bernard et al. is directed to the skin treatment and McDevitt et al. is directed at preventing shrinkage in wool.

The examiner respectfully disagrees with the above argument because the primary reference of Bernard et al. (US' 364) teaches a hair dyeing composition comprising the claimed enzyme of transglutaminase. McDevitt et al. (US' 033) as a secondary reference clearly teaches that a composition that comprises transglutaminase enzymes improved softness, tensile strength and dyeing characteristics of the hair (see abstract). Therefore, there is a motivation to combine the teachings of the references by incorporating the transglutaminase as a calcium independent enzyme as taught by McDevitt in the composition of Bernard with a reasonable expectation of success for improving the dyeing characteristic of the composition as well as the properties of hair. Therefore, there is a motivation to combine the references.

7      **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 1751

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eisa Elhilo  
September 12, 2004



MARGARET EINSMANN  
PRIMARY EXAMINER  
GROUP 1100